

Message Text

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DRAFTED BY L/EUR:DHSMALL:EMB

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PATENT AND TRADEMARK OFS:MHARTMAN

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TO AMEMBASSY BONN

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E.O. 11652: N/A

TAGS: EIND, PFOR, SZ, GW, GE

SUBJECT: GDR - ACCESSION TO INDUSTRIAL PROPERTY CONVENTION

1. THE FOLLOWING ARE DEPARTMENT'S RESPONSES TO QUESTIONS
POSED IN BONN'S 7552:

(A) DEPARTMENT'S DIVISION OF TREATIES INTO TWO CATEGORIES,
THOSE AFFECTING "PRIVATE RIGHTS" AND THOSE NOT AFFECTING
THEM, IS, ADMITTEDLY, SOMEWHAT ARBITRARY. HOWEVER, SOME
TREATIES ARE INTENDED TO ESTABLISH A SYSTEM FOR THE PROTEC-
TION OF PRIVATE INTERESTS AND RIGHTS, OTHERS ARE PRIMARILY
CONCERNED WITH INTERSTATE RELATIONS. IT IS FORMER, SUCH
AS PATENT AND COPYRIGHT CONVENTIONS, WHICH WE PROPOSE TO
PUT INTO EFFECT PROSPECTIVELY WITH GDR.

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(B) "SUCH CASES" REFERS TO PRE-WAR MULTILATERAL TREATIES WITH GERMANY, WHICH GDR IS SEEKING TO REAPPLY, WHICH AFFECT PRIVATE RIGHTS AND REQUIRE NEW LEGISLATION REGARDING THE NEW "CONVENTION COUNTRY". NO NEW LEGISLATION IS REQUIRED IN U.S. FOR THESE CASES.

(C) U.S. WOULD NOT BE PREPARED TO CONSIDER GDR A WIPO COUNTRY AS OF THE DATE OF ORIGINAL APPLICATION TO THE REICH

AS SUGGESTED IN U.K. MEMORANDUM, ASSUMING WE UNDERSTAND IT. U.S. PATENT AND TRADEMARK OFFICE HAS NOT BEEN ADMINISTRATIVELY HONORING G.D.R. REGISTRATIONS. U.S. REGISTRANTS HAVE ACQUIRED RIGHTS AND MAY HAVE MADE INVESTMENTS IN RELIANCE ON THOSE RIGHTS WHICH MIGHT BE AFFECTED BY GRANTING PRIORITY TO EARLIER FILED G.D.R. APPLICATIONS FOR PATENT REGISTRATIONS. IT IS FOR THIS REASON THAT WE FEEL IT NECESSARY TO CONSIDER WIPO APPLICABLE TO G.D.R. ONLY FROM DATE THREE MONTHS FROM TIME OF PUBLIC NOTICE, WHICH WE WILL GIVE UPON U.S.G. NOTIFICATION TO WIPO SECRETARIAT OF DATE OF OUR ACCEPTANCE OF G.D.R. ACCESSION.

2. DEPARTMENT WOULD WISH TO PROCEED WITH NOTIFICATION TO WIPO ASAP, AND WE WOULD LIKE TO SEPARATE THIS QUESTION FROM OVERALL TREATMENT OF ISSUE OF G.D.R. AND MULTILATERAL CONVENTIONS. PATENT AND TRADEMARK OFFICE IS PRESENTLY MAKING TECHNICAL PREPARATIONS FOR RECOGNITION OF G.D.R. AS A PARTY, AND WE WOULD EXPECT TO PROCEED TO NOTIFY WIPO IN ABOUT TWO WEEKS TIME, UNLESS BONN GROUP DISCUSSION BEFORE THEN PRODUCES REASONS FOR HOLDING UP OUR ACTION. KISSINGER

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